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Response from the *University of Bath Tobacco Control Research Group* to HM Government's "*consultation on the potential approach to duty- and tax-free goods arising from the UK's new relationship with the EU*".

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The Tobacco Control Group (TCRG) at the University of Bath is a multidisciplinary group producing high quality academic research that evaluates the impact of public health policy on health, and the influence of major corporations on health behaviours, health outcomes, and policy. The TCRG and the University of Bath are the research partner in STOP (Stopping Tobacco Organisations & Products) which is a global tobacco industry watchdog whose mission is to expose and counter industry behaviour that undermines public health. STOP is funded by Bloomberg Philanthropies (www.bloomberg.org). The TCRG is also funded by Cancer Research UK (CRUK) grant number A25745 ('Harnessing big data alongside investigative methods: Investigating tobacco industry conduct in an era of political uncertainty'), and is a member of the SPECTRUM consortium (Shaping Public Health Policies to Reduce inequalities and harm) funded by the UK Prevention Partnership led by the Medical Research Council (grant ref: MR/S037519/1). This University of Bath is making this response in its own right and on behalf of the SPECTRUM consortium.

We can confirm that we have no direct or indirect links to the tobacco industry, and note that this was not a required declaration in the consultation. However, since the UK is a Party to the World Health Organisation's Framework Convention on Tobacco Control (FCTC),¹ under article 5.3, the UK has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. Since the availability of cheap tobacco forms part of public health policy we therefore encourage HMT and HMRC to consider responses to this consultation in light of possible conflicts of interest, and to include a requirement for such declarations in any future consultations.

¹ <https://www.who.int/fctc/cop/about/en/>

As general comments we would make the following points and observations before we proceed to consider the particular questions raised within the consultation.

1. We are limiting our responses to consideration of tobacco products (henceforth tobacco) as that is where our expertise lies.
2. Smoking remains the leading cause of preventable premature death, killing nearly 80,000 people a year in England alone,² and up to two thirds of long-term smokers will likely die prematurely due to the habit.³ Smoking is also responsible for half the difference in life expectancy between the rich and poor in society. Furthermore, for every death, another 30 people are suffering serious disease and disability caused by smoking. After obesity smoking is the leading cause of years lived with disability.⁴
3. Smoking not only harms the public health but it also damages the economy and increases pressures on our NHS and social care system. For instance, in 2015 it is estimated to have cost the NHS £2.6bn to treat the health problems caused by smoking.⁵ Furthermore, recent analysis suggests that smoking costs the economy £74.4bn in productivity losses, which is equivalent to 3.5% of GDP (which is approximately the same proportion spent on public education).⁶
4. Tobacco taxes, and other policies designed to increase the monetary cost of smoking, have been shown to be highly effective in reducing smoking prevalence and tackling inequalities, as poorer (and younger) smokers are more price sensitive than the general population.^{7 8 9}
5. The Government recognises that for England to be smoke-free by 2030 is “extremely challenging”. In particular although smoking rates are falling overall they remain stubbornly high in certain groups, such as routine and manual workers, those with mental health problems and other disadvantaged groups. More therefore needs to be done in order to help the nation meet this worthy goal that will enhance the public health, save the NHS treatment costs, and increase the productivity of the economy.

² <https://digital.nhs.uk/data-and-information/publications/statistical/statistics-on-smoking/statistics-on-smoking-england-2019>

³ Banks, E, Joshy, G, Weber, MF et al. Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence, *BMC Medicine* (2015) **13**. DOI 10.1186/s12916-015-0281-z

⁴ <https://www.cdc.gov/tobacco/index.htm>

⁵ <https://www.gov.uk/government/publications/cost-of-smoking-to-the-nhs-in-england-2015/cost-of-smoking-to-the-nhs-in-england-2015>

⁶ ASH. smoking, employability, and wages. 2020. <https://ash.org.uk/wp-content/uploads/2020/03/SmokingEmployabilityandWages.pdf>

⁷ Brown T, Platt S, Amos A. Equity impact of population-level interventions and policies to reduce smoking in adults: a systematic review. *Drug and alcohol dependence* 2014;**138**:7-16.

⁸ World Health Organization. Effectiveness of Tax and Price Policies for Tobacco Control. IARC Handbooks of Cancer Prevention in Tobacco Control 2011;14.

⁹ Chaloupka FJ, Yurekli A, Fong GT. Tobacco taxes as a tobacco control strategy. *Tobacco control* 2012;**21**(2):172-180.

Q1. The government would welcome any evidence or views on reintroducing duty-free and tax-free personal allowances to passengers travelling from the EU to the UK, including the impacts that these could have.

6. Since the UK has been and currently still is a part of the EU single market, individuals can import very large quantities of tobacco from EU countries with relatively low tobacco duty, which encourages tobacco use in the UK. It helps smokers access cheap tobacco, thereby reducing the public health impact of higher UK tobacco taxes.¹⁰ Moreover, being able to import significant quantities of tobacco undermines the UK duty paid sector. It means lower UK sales, thereby reducing both the government tax base and the profitability of tobacco retailers, while still creating the associated harms and costs of tobacco use, including to both public health and the NHS.
7. Limiting the quantity of tobacco that an individual can import into the UK from the EU would be strongly welcomed as it would be an important new aspect of tobacco restrictions in the UK. It is important that any such quantities are set to the minimum possible level to maximise the benefit of this change.
8. Switching to a duty-free system for tobacco products brought into the UK from the EU will continue to facilitate the ready availability of cheap tobacco, contrasting with the primary goal of tobacco taxation which is to improve public health by reducing tobacco consumption. Furthermore, it would be in direct contrast to the goal of making England Smokefree by 2030.
9. Article 6 of the WHO Framework Convention on Tobacco Control (FCTC)¹¹, of which the UK is a party to, calls for “*prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products*”. Introducing duty-free tobacco sales for travellers entering the UK from the EU would therefore be in contraction to our obligations as signatory to the FCTC.
10. *Duty-free allowances should therefore not be re-introduced when travelling from the EU into the UK once EU single-market freedoms end.* Furthermore, all travellers entering the UK from the EU should be subject to strict limits on the importation of any duty paid tobacco product. It is important that any such quantities are set to the minimum possible level.
11. There is evidence from internal tobacco industry documents and information provided by customs and tax officials in various countries that price differentials between duty-free and legal retail prices facilitate illicit trade as does allowing travellers to bring in

¹⁰ Partos TR, Gilmore AB, Hitchman SC, *et al.* Availability and Use of Cheap Tobacco in the United Kingdom 2002–2014: Findings From the International Tobacco Control Project. *Nicotine and Tobacco Research* 2017;**20**(6):714-724.

¹¹ https://www.who.int/fctc/text_download/en/

tobacco products duty-free.^{12 13} Cigarettes smuggled into countries have often passed through duty-free shops at borders first^{15 14} and cigarettes marked for duty-free sales may end up as contraband prior to even reaching duty-free stores, due to being diverted into illegal distribution channels.¹⁵ This is reflected in the FCTC's Protocol to Eliminate Illicit Trade in Tobacco Products, Article 13 of which requires all provisions in the protocol to be applied to duty-free sales.¹⁶

12. A number of governments have eliminated duty-free allowances for arriving travellers for the reasons outlined above¹⁷ and we suggest that that the UK government does the same, both for travellers arriving from the EU but also more generally. Indeed, the current massive reduction in international travel due to Covid-19 presents a timely opportunity for this change.
13. If the government nevertheless decides to introduce duty-free allowances for tobacco for travellers into the UK from the EU, they should be set the allowance at the lowest possible level for the aforementioned reasons.

Q2. The government would welcome views on whether the current personal allowances for alcohol and tobacco imports should remain the same or should be changed, and if so why?

14. A personal allowance effectively allows legal tax avoidance with the government (through setting an allowance) effectively determining the volume at which bringing product across the border becomes illegal.
15. Since the UK has been, and currently still is, a part of the EU single market, individuals can import very large quantities of tobacco from EU countries on which they have paid the (often relatively low) tobacco duty in those countries. This again encourages tobacco use in the UK: it helps smokers access cheap tobacco, thereby reducing the public health impact of higher UK tobacco taxes.¹⁸ Moreover, being able to import significant quantities of tobacco undermines the UK duty paid sector. It means lower UK sales, thereby reducing both the government tax base and the profitability of tobacco retailers, while still creating the associated harms and costs of tobacco use, including to both public health and the NHS. It also creates incentives to import large volumes from Europe, potentially encouraging illegal tax avoidance as above.

¹² OECD Reviews of Risk Management Policies Illicit Trade Converging Criminal Networks: Converging Criminal Networks, 2016

¹³ https://cancercontrol.cancer.gov/brp/tcrb/monographs/21/docs/m21_14.pdf

¹⁴ https://tobaccocontrol.bmj.com/content/13/suppl_2/ii104.full

¹⁵ https://apps.who.int/iris/bitstream/handle/10665/44316/9789241563994_eng.pdf?sequence=1

¹⁶ https://apps.who.int/iris/bitstream/handle/10665/80873/9789241505246_eng.pdf?sequence=1

¹⁷ WHO Technical Manual on Tobacco Tax Administration, 2010

¹⁸ Partos TR, Gilmore AB, Hitchman SC, *et al.* Availability and Use of Cheap Tobacco in the United Kingdom 2002–2014: Findings From the International Tobacco Control Project. *Nicotine and Tobacco Research* 2017;**20**(6):714-724.

16. For this reason, and due to the points outlined previously in response to question 1, once the UK leaves the EU single market, prohibition of duty-free sales of tobacco is the best solution.
17. A personal allowance for duty paid tobacco is still superior to an unlimited influx of cheap products, but this allowance should be set as low as possible, and certainly considerably lower than the current interpretation of personal consumption for passengers arriving from the EU as outlined in Annex A of the consultation document.

Q3. Do you agree that the government should extend duty-free sales to those travelling to the EU?

18. No, we think this is a bad idea and hence disagree with this suggestion for all of the reasons outlined in detail above. Extending duty free travel to those travelling to the EU would be contrary to the commitments the UK has made as a signatory of the FCTC, undermines the smokefree 2030 goal for England, undermines the UK tobacco duty system by offering access to cheap tobacco, and removes duty-paid sales from UK retailers.

Q4. The government would welcome any evidence or views on the impacts that a return of duty-free sales for passengers travelling from the UK to the EU could have.

19. The impact of a return to duty-free sales for passengers travelling from the UK to the EU are covered by our detailed comments above. In short it would contradict our commitments as a signature of the FCTC and reduce duty-paid sales in the UK thereby negatively impacting the exchequer and retailers.
20. The tobacco industry has been found to use its pricing power to maximise both its sales and its profitability, by for example, over- and under-shifting changes in UK tobacco duty.^{19 20} Extending duty-free sales to those travelling to the EU therefore risks allowing the tobacco industry a further opportunity to enhance its profit on tobacco sales by manipulating duty-free prices, and it would be doing so at the expense of UK tax revenues. The tobacco industry is already uncommonly profitable, earning margins significantly higher than other comparable companies.^{21 22 23} The exchequer should benefit from any increases in the wholesales tobacco prices, not the tobacco industry.

¹⁹ Hiscock R, Branston JR, McNeill A, *et al.* Tobacco industry strategies undermine government tax policy: evidence from commercial data. *Tobacco control* 2018;**27**(5):488-497.

²⁰ Hiscock R, Branston JR, Partos TR, *et al.* UK tobacco price increases: driven by industry or public health? *Tobacco control* 2019; 28(e2):e148-e150.

²¹ Gilmore AB, Branston JR, Sweanor D. The case for OFSMOKE: how tobacco price regulation is needed to promote the health of markets, government revenue and the public. *Tobacco Control* 2010;**19**(5):423-430.

²² Branston JR, Gilmore AB. The case for Ofsmoke: the potential for price cap regulation of tobacco to raise£ 500 million per year in the UK. *Tobacco control* 2014;**23**(1):45-50.

²³ Branston JR, Gilmore AB. The failure of the UK to tax adequately tobacco company profits. *Journal of Public Health* 2019. **42**(1): 69-78,

21. Duty-free tobacco sales risks encouraging travellers to think of cheap tobacco as being a routine part of their holiday experience. Travellers may (subconsciously) find duty-free to be encouraging tobacco use, including new uptake of the habit and delaying quit attempts by existing smokers.

Q5. The government would welcome any evidence or views on the impacts that an introduction of duty-free sales for passengers travelling to the EU at ports, airports and international train stations could have.

Q6: The government would welcome any evidence and views on the impact of allowing duty-free sales for passengers to the EU on-board trains.

Q7: The government would welcome any evidence and views of the impact of allowing duty-free sales for passengers and crew on-board planes and ships destined for the EU.

22. We consider these questions as a single item since they refer to the means by which duty-free sales might be introduced in a practical sense.
23. The wider the availability of duty-free tobacco products, the greater the problem that cheap tobacco sales will be. Therefore, all of the issues and problems outlined above will become greater.
24. If duty-free is introduced it would be better if this were done on the smallest possible scale, in the fewest locations, and if it were only done in environments where legal allowances could be robustly and easily enforced.

Q8. The government would welcome any evidence or views on the current structures, practices and benefits of the VAT RES.

25. Tobacco is not, to our knowledge, explicitly excluded from the VAT RES system, but we believe it should be. As mentioned in our opening remarks, price-based tobacco control, such as tobacco taxation is one of the most effective means of reducing tobacco consumption. As such VAT should always be payable on all tobacco sales in the UK. This will benefit the Exchequer's VAT revenues.
26. Tobacco duty is already high in the UK, so not allowing tourists to claim back VAT paid on tobacco sales is unlikely to have any meaningful impact on the UK high street or international tourism given that tobacco purchases would still remain relatively costly.

Q9. What additional benefits would there be to an extension of the VAT RES to EU residents in its current, or digital form?

27. If tobacco was not to be explicitly excluded from the VAT RES scheme, and a digital format for claims was created, it might encourage tobacco applications which would be highly inappropriate given the harms caused by such deadly products.

Q10. The government would welcome any evidence or views on alternative and/or more effective ways of operating the VAT RES.

28. We have no comments to make except to re-iterate point 25 above.

Q11. The government would welcome any evidence or views on the impacts of abolishing the VAT RES.

29. In regard to tobacco products, abolishing the VAT RES would be welcomed as it would help ensure higher priced tobacco, which would be to the benefit of both public health and the Exchequer.

Q12. Do you agree that the government should extend airside tax-free sales for non-excise goods to passengers travelling to the EU?

Q13. The government would welcome any evidence or views on the impacts of abolishing airside tax-free sales.

Q14. What additional benefits would there be to an extension of airside taxfree sales to EU bound passengers?

Q15. What do you think the impacts of introducing tax-free sales for nonexcise goods for passengers travelling from the UK to the EU could have?

30. We have no particular comments to make in regard to these questions as they fall outside of our immediate expertise.

Q16. The government would welcome any evidence or views on the impacts that an introduction of tax-free sales at international train stations could have.

31. We would re-iterate the previous points made, especially that relating to point 23 above – the greater the availability of duty-free tobacco sales, the greater the associated problems will be. In the case of train stations there is likely to be a newly observed negative impact on retailers located in the immediate vicinity as smokers switch current pre-journey tobacco purchases (to ensure supplies on arrival) in favour of cheaper duty-free purchases.